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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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BELASCO, JACOBS & TOWNSLEY LLP
HOWARD HUGHES CENTER
6100 CENTER DRIVE
SUITE 630
LOS ANGELES, CA 90045

EXAMINER

BUI, LUAN KIM

ART UNIT

PAPER NUMBER

3728

DATE MAILED: 11/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/779,501

Applicant(s)

SU, FRANK

Examiner

Luan K Bui

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-60 is/are pending in the application.
- 4a) Of the above claim(s) 35-60 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/13/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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1. Applicant's election without traverse of Group I, claims 1-34 in the reply filed on 9/24/2004 is acknowledged. Claims 35-60 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hanson et al. (3,988,970; hereinafter Hanson'970) in view of Brock et al. (3,967,544; hereinafter Brock'544). Hanson'970 discloses in the embodiment of Figure 2, a flat bottom plastic bag stack comprising a plurality of stacked plastic bags with each of the bags comprising front and rear walls, each of the front and rear walls having first and second side edges, a pair of longitudinally oriented side gussets (14) attached to the first and second side edges, each of the bags having a flat, rectangular bottom formed of lower portions of the front and rear walls and lower portions of the side gussets, lower corners of the each side gussets form downward pointing triangular panels (24, column 4, lines 4-6) and lower portions of the front and rear walls sealed (26) to the triangular panels, each of the bags being folded inwardly at the side gussets and upwardly from either of the front and rear wall at a point spaced upwardly from the bottom edge to form a flattened bag and the bags being stacked upon one another. Hanson'970 also discloses the other

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limitations of the claims except for the plastic bags being formed from polyethylene film.

Brock'544 teaches a flat bottom bag stack comprising a plurality bags and each bag formed from polyethylene film and each bag being folded inwardly at side gussets and upwardly from either of front and rear wall at a point spaced upwardly from bottom edge to form a flattened bag (Figures 12-14). It would have been obvious to one having ordinary skill in the art in view of Brock'544 to modify the bags of Hanson'970 so the bags are formed from polyethylene film because such film is considered equivalent to the plastic film of Hanson'970 and since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

4. Claims 1 and 4-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 2 and 3 above, and further in view of Beasley et al. (5,335,788; hereinafter Beasley'788) and Wilfong, Jr. et al. (6,286,681; hereinafter Wilfong, Jr.'681). The bags of Hanson'970 as modified further fails to show each of the bags being attached at the top edges of at least one of the front and rear walls to at least one header strip with at least one hole and at least one weakened area. Beasley'788 shows a plastic bag stack (10) comprising a plurality of bags with each bag having at least one header strip (14) with a hole (23), a weakened area is defined between an edge (24) of the hole and an edge of the header strip and the header strip attached at top edge of at least one of the front and rear walls (Figure 1). Wilfong, Jr.'681 suggests plastic bag stack (10) comprising a plurality of bags with each bag having at least one header strip (18) with a hole (26), a weakened area is defined between an edge of the hole and

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the top (27) of the header strip (Figure 3). It would have been obvious to one having ordinary skill in the art in view of Beasley'788 and Wilfong, Jr.'681 to modify the bags of Hanson'970 as modified so each of the bags comprises at least one header strip attached at the top edge of at least one of the front and rear walls and each header strip comprises a hole and a weakened area to facilitate attaching the stack of bags to a dispensing rack and to facilitate removing each bag from the stack.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is (703) 305-5861. If in receiving this Office Action, it is apparent to Applicant that certain documents are missing from the record for example copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to TC 3700 Customer Service at (703) 306-5648.

Any inquiry of a general nature or relating to the status of this application should be directed to the Customer Service whose telephone number is (703) 306-5648. Facsimile correspondence for this application should be sent to (703) 872-9306 for Formal papers and After Final communications.

lkb
November 5, 2004



Luan K. Bui
Primary Examiner